

REMARKS/ARGUMENTS

This is in response to the official action dated February 8, 2006. Reconsideration is respectfully requested. Claims 2, 5-8, 10 and 12 are pending in the application. Claims 2, 5-8, and 10 have been amended. Claims 1, 3, 4, 9 and 11 have been canceled. Claim 12 is new.

The Examiner rejected claims 1-11 as obvious over Moberg et al (US Patent No. 5,230,704). The Examiner also rejected Claims 3 and 4 as obvious over Moberg et al (US Patent No. 5,230,704) in view of Stahl (US Patent 6,679,834). Lastly, the Examiner rejects claims 7 and 11 as obvious over Moberg et al (US Patent No. 5,230,704) in view of Arias et al (US Patent No. 5,429,596).

Concerning the reference of Moberg, applicant submits that it can easily be ascertained from Fig. 4 and the associated description, that Moberg teaches an entirely different mechanism than applicant for providing either suction action or irrigation fluid through a single lumen 30. In Moberg, connected to the lumen are two flexible tubes which are further connected to either a liquid under pressure or a vacuum source. These flexible tubes are either pinched or released manually by pushing or releasing two rounded trigger members 38 and 40. This type of arrangement may easily lead to confusion in that the operator can push accidentally the wrong trigger, either 38 or 40 and flushing is provided instead of suction. In addition, it can easily be seen that the operator can either push both triggers into the "on" position, or push both triggers half down into an undefined position, causing some suction and some flushing at the same time, causing at least turbulence in the one lumen tube. In addition, it can easily be seen that the flexible tubing, being repeatedly mechanically pinched, break at some point, which might be when the instrument is in use.

Applicant's flushing and suctioning device does not have any of such described potential problems. Applicants utilize a safe mechanically sound switching mechanism which operates via a switchable valve position which then clearly causes either a lumen connection to the flushing pump, or a lumen connection to the suction pump. Nowhere does Moberg utilize a switchable valve. Applicant's switchable valve, as provided in independent claim 12, is triggered by a spring-biased lever which includes a transverse member having two spaced-apart bores and a slider, arranged on the transverse member and having two spaced apart slider bores. Further, the

lever is arranged in the housing such that the bores of the transverse members align with the plungers of each respective pump. The slider is slidably arranged on the transverse member such that the slider bores either overlap with one, or covers up one of the transverse member bores, such that upon manually pivoting the lever towards the plungers, only one plunger is actuated by the lever so that either the suction or the flushing pump is operated.

Accordingly, unlike the present invention, the Moberg reference does not disclose or suggest that a slider is slidably arranged on a transverse member such that the slider bores either overlap with one, or covers up one of the transverse member bores, such that upon manually pivoting the lever towards the plungers, only one plunger is actuated by the lever so that either the suction or the flushing pump is operated. Applicant has discovered that the arrangement of the slider with arranged on the transverse member such that the slider bores either overlap with one, or covers up one of the transverse member bores solves many problems associated with manually help devices of this character.

A combination of Moberg with either Arias and/or Sakurai does not provide applicants claimed invention. There is no suggestion or motivation in either Moberg or the secondary references to change the entire mechanism to something else and arrive at applicant's invention as claimed.

Applicant therefore submits that new claim 12 and all remaining amended dependent claims are patentable over Moberg and/or in combination with Arias and Sakurai, and allowance is respectfully requested.

AUG 04 2006


CONDITIONAL PETITION FOR EXTENSION OF TIME

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,
NORRIS McLAUGHLIN & MARCUS, P.A.

By 
Christa Hildebrand
Reg. No. 34,953
875 Third Avenue - 18th Floor
New York, New York 10022
Phone: (212) 808-0700
Fax: (212) 808-0844
Facsimile: (212)808-0844